

ARTICLE 910

Trees and Shrubs

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CROSS REFERENCES

Cutting, defacing trees when setting poles - See S.U. & P.S.
Art. 907

910.01 DEFINITIONS.

As used in this Article, the following meanings shall apply:

(a) "Person" includes all firms, associations and corporations, and persons connected with such firms, associations and corporations.

(b) "Public area includes all parks, streets and any planting area between streets and property lines.

(c) "Trees and shrubs" includes all woody vegetation.
(Ord. 1853 §1. Passed 2/18/64.)

(d) "Director" means the Director of Public Works.
(Ord. 2776. Passed 5/26/81.)

910.02 ENFORCEMENT.

The Director shall enforce the regulations as set forth in this Article. (Ord. 2776. Passed 5/26/81.)

910.03 PLANTING AND CONTROL OF TREES AND SHRUBS.

(a) The Director shall have charge and control of all trees and shrubs growing now or hereafter in any public area of the City, and shall have the power to plant and maintain such trees and shrubs, in accordance with this Article.

(b) All decisions of a physiological, entomological and pathological nature relating to the disposition of any tree or group of trees that may be in question in any particular instance shall originate from the City Forester.
(Ord. 2776. Passed 5/26/81.)

910.04 PERMIT REQUIRED TO PLANT, TREAT OR REMOVE IN PUBLIC AREAS.

(a) No person shall hereafter plant, move, spray, fertilize, trim, do surgery work, climb with spikes or with the assistance of rope, remove or damage any guard or device placed to protect any tree or shrub, cut above or below ground, disturb or alter any tree or shrub on any public area of the City of Bethlehem, nor cause such acts to be done by others, without first obtaining permission from the Director, who shall issue the permission if, in his judgment, the work is necessary, and the proposed methods of workmanship are of a satisfactory nature. A permit shall not be required to cultivate and water. All tree work shall be carried out in conformity with the current Arboricultural Specifications and Standards or Practice prepared by the City Forester.

(b) As a condition to any permit to remove any tree or shrub on a public area, the Director may require that the permittee plant one or more trees or shrubs in place of the one removed. Whenever any such tree or shrub has been removed or destroyed pursuant to any such conditional permit, it shall be unlawful for the permittee to fail, refuse or neglect to plant another tree or shrub or other trees or shrubs of the type, size and at the location specified in the permit, within the time specified by the Director. In instances where aesthetics, desirability of species or general utility is concerned, all decisions should reflect the professional opinion of the City Forester. The City Forester will then issue the recommendation of approval or disapproval to the Director for his issuance or rejection of the proper permit.

(c) In those situations where the replacement tree can be planted on a public area at a location adjacent to the tree removed and adhere to the Arboricultural Specifications and Standards of Practice, then the stump of the tree removed must be leveled four inches below the ground surface and filled in with acceptable type soil. In those situations where the replacement tree cannot be planted on a public area at a location adjacent to the tree removed, then the stump must be leveled to a width and depth below the ground surface to allow the planting of a replacement tree in the same location as the tree removed, as long as the Arboricultural Specifications and Standards of Practice are adhered to. The City Forester will issue a recommendation for the location of the replacement tree to the Director, or his designee, for approval or disapproval. (Ord. 2776. Passed 5/26/81; Ord. 3481. Passed 5/19/92.)

910.05 PERMIT CONTENTS; FEE.

(a) Every written permit issued by the Director shall describe the work to be done, specify the species or variety, size, nursery grade, location, briefly specify the method of planting, method of support and trimming of all trees and shrubs concerned, and contain a definite expiration date. Any permit may be declared void if its terms are violated. (Ord. 1853 §1. Passed 2/18/64.)

(b) A fee of ten dollars (\$10.00) shall be charged for each permit issued, payable to the City Treasurer. A separate permit shall be required for each property. (Ord. 3010. Passed 9/3/85; Ord. 3927. Passed 1/5/99.)

910.06 FASTENING MATERIALS TO TREES.

No person shall fasten any sign, wire, rope or other material to or around or drive any nail or spike through any tree or shrub in a public area in the City, except by permission of the Director and except in emergencies such as storms or accidents. (Ord. 1853 §1. Passed 2/18/64.)

910.07 OBSTRUCTING PASSAGE OF AIR, WATER TO ROOTS.

No person shall deposit, place, store or maintain upon any public area of the City any stone, earth fill, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree or shrub growing therein. (Ord. 1853 §1. Passed 2/18/64.)

910.08 PROTECTION OF TREES AND SHRUBS.

(a) No person shall break, injure, mutilate, kill or destroy any tree or shrub, or permit any fire to burn where such fire will injure any portion of any tree or shrub in any public area of the City.

(b) No person shall knowingly permit any leak to exist in any gas pipe within the root zone of any tree or shrub in a public area.

(c) No person shall permit any toxic chemical to seep, drain or be emptied on or about any tree or shrub in a public area.

(d) No person shall knowingly permit electric wires to come in contact with trees or shrubs in any public areas unless protected by approved methods.

(e) No person shall attach any electrical insulation to any tree or shrub in a public area or shall excavate any ditches, tunnels or trenches, or lay any drive within a radius of ten feet from any tree or shrub in a public area without first obtaining permission from the Director.

(f) During building operations, the builder shall erect suitable protective barriers around trees or shrubs in public areas apt to be injured.

(g) Whenever the Director determines it is necessary to move, protect or cut off the electricity from service wires so he can safely and properly do his work, he shall serve written notice on the owners of such wires and such owners shall comply with such orders within twenty-four hours after the service of such notice.

(h) No person shall place salt, brine, oil or other substances injurious to plant growth in any place in such a manner as to injure any tree or shrub in a public area.

(i) No person shall build any fire or station any tar kettle, road roller or other engine in such a manner that the heat vapors or fumes therefrom may injure any tree or shrub growing in any public area.

(j) No person is permitted to lay any sidewalk along or to open, construct, curb or pave any street or do any like act so as to interfere with or do injury to any tree or shrub in a public area without the consent of the Director.

(k) Shovels and all other implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree, shrub or plant in any public area.

(l) Where in authorized excavations it becomes necessary to expose or cut roots more than one inch in diameter, it shall be the duty of the contractor to protect such roots under advice from the Director. (Ord. 1853 §1. Passed 2/18/64.)

910.09 SPRAYING TREES.

All spraying of trees or shrubs shall be done with approved materials as regulated under current Pennsylvania Pesticide Control Act.

910.10 TREE SURGEON TO DO WORK; LICENSE, FEE.

(a) All pruning, cutting, removal, spraying, fertilizing and tree surgery shall be done only by a person holding a City tree surgeon's license.

(b) A tree surgeon's license shall be issued to those persons who have passed an examination prepared by and administered by the City Forester. A yearly license fee of twenty-five dollars (\$25.00), payable to the City Treasurer, shall be levied for each license issued to a commercial tree surgeon and a fee of five dollars (\$5.00) shall be levied for each license issued to a non-commercial citizen. The license issued to the non-commercial citizen shall entitle the licensee to perform tree surgery work on trees and shrubs only on property which the licensee owns. Licenses shall be renewed yearly without examination; however, the City Forester may revoke, suspend or refuse to renew any license or require re-examination of any licensee if, in the opinion of the City Forester, the licensee has not performed in a satisfactory manner.

(c) Applicants for City of Bethlehem tree surgeon's test shall meet the following minimum insurance requirements as set forth below:

All commercial tree surgeons are required to obtain Public Liability Insurance in the amount of \$500,000/\$1,000,000, Property Damage Insurance in the amount of \$50,000/\$100,000, and Workmen's Compensation Insurance. Those commercial tree surgeons who do not have employees, and non-commercial citizens need not maintain Workmen's Compensation Insurance. (Ord. 3927. Passed 1/5/99.)

Non-commercial citizens must show evidence of their homeowner's or liability policy which must be in effect at the time that they apply for the City of Bethlehem's tree surgeon's test.

Each applicant shall submit to the City Solicitor proof that the applicant maintains insurance coverage as required by this section. No license may be issued without such proof.

(d) Safety Equipment - Licensed tree surgeon's are required to use safety equipment including but not limited to protective helmets, safety boots, goggles, safety harnesses and climbing rope. Failure to use safety equipment will result in the revocation of the tree surgeon's license.

(e) Concerning the spraying of pesticides and herbicides of tress and shrubs, growing on the public planting areas, a permit for this work shall be issued only to those City of Bethlehem licensed tree surgeons who are certified under the Pennsylvania Pesticide Control Act. Ord. 2776. Passed 5/26/81.)

910.11 PROPERTY OWNER'S PRIVILEGES.

Minor tree work may be done by the individual homeowners to trees and shrubs planted in public areas on his property, provided he had obtained prior approval from the Director. The Director shall advise the property owner whether or not the proposed work is minor. (Ord. 1853 §1. Passed 2/18/64.)

910.12 PUBLIC NUISANCES.

(a) Any tree or shrub or parts thereof growing upon private property or in the public right-of-way but overhanging or interfering with the use of any street, park or public area of the City, endangering the life, health, safety or property of the public is a public nuisance. Such nuisance shall not be permitted to exist and the property owner shall be responsible to eliminate the nuisance by removing the tree or shrub in total or by removing the interfering limbs and branches, all at his expense. Should the property owner allow such public nuisance to continue to exist, the Director shall notify the owner as noted in (b) below.

(b) The owner shall be notified in writing of the existence of the nuisance, and given thirty days for its correction or removal. If not corrected or removed within the time allotted, the Director shall cause the nuisance to be corrected or removed, and the cost shall be assessed to the owner. The written notice of the Director in no way removes the property owner's responsibility to correct the public nuisance. (Ord. 3063. Passed 3/4/86.)

910.13 PERMITS TO PUBLIC UTILITIES.

(a) All permits issued for the installation and/or maintenance of public utilities that affect trees or shrubs in public areas shall be approved by the Director. (Ord. 2776. Passed 5/26/81.)

(b) When a permit is issued to a public utility to trim public trees, or to do other operations affecting trees or shrubs in public areas, the work shall be done in a neat and workmanlike manner and in conformity with the rules, regulations and orders of the Public Utility Commission, i.e the natural method, drop crotch/lateral trimming, top trimming or side trimming. (Ord. 2776. Passed 5/26/81; Ord. 3210. Passed 9/6/88; Ord. 3947. Passed 4/6/99.)

(c) The City Forester shall have the authority and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this article. (Ord. 1853 §1. Passed 2/18/64; Ord. 3947. Passed 4/6/99.)

910.14 COOPERATION WITH OTHER CITY DEPARTMENTS.

(a) There shall be close cooperation with the Director and other City departments when their common work affects trees and shrubs in public areas.

(b) The Bureaus of Electricity, Fire and Police should work closely with the Director in the interest of trees and shrubs in public areas and public safety. (Ord. 1853 §1. Passed 2/18/64.)

910.15 INTERFERENCE WITH DIRECTOR.

No person shall prevent, delay or interfere with the Director or any of his assistants in the execution or enforcement of this Article. (Ord. 1853 §1. Passed 2/18/64.)

910.16 PLANTING OF TREES BY THE CITY.

(a) The City may decide to plant trees in the planting area of the public right-of-way. When such a decision is made in a proposed development, the expense of purchasing and planting trees shall be the developer's. The developer shall also be responsible for the trees during the guarantee period. When the decision to plant trees involves an existing established street not part of a proposed development, the expense of purchasing and planting the trees shall be the City's. The responsibility during the guarantee period shall be the City's or the vendor's when the trees are planted under a contract.

(b) The Director or his designee, the City Forester, shall select the location and the tree type.

(c) Where applicable, tree wells and/or tree grates shall be installed flush with the adjoining surface so as to not create a safety hazard.

(d) When a tree is to be planted by the City in the planting area of the public right-of-way, the property owner shall be notified by certified mail. The property owner shall have 30 days to comment or respond. The property owner shall have the right of refusal for just cause, to have a tree planted at the designated location.

(e) The property owner shall be responsible to maintain the planted tree after the guarantee period and also the tree well and/or grate, if installed, in accordance with the other provisions of this ordinance. In addition, the tree grate must be maintained flush with the adjoining surface.

(f) A property owner may plant a tree(s) in the planting area of the public right-of-way subject to approval by the Director or his designee, the City Forester, and in accordance with all provisions of this ordinance.
(Ord. 3320 §1. Passed 2/20/90.)

910.99 PENALTY

Any person who violates any provision of this Article shall be subject to the following penalties:

(a) First violation - A fine of \$200.00, or thirty days imprisonment, or both;

(b) Second violation - A fine of \$500.00, or sixty days imprisonment, or both;

(c) Third and each subsequent violation - A fine of \$1,000.00, or ninety days imprisonment, or both.
(Ord. 3038. Passed 10/22/85; Ord. 3242-Passed 2/7/89)